

BILL NO. A-79-08-58 (as amended)

APPROPRIATION ORDINANCE NO. A- 19-79

AN ORDINANCE appropriating additional funds  
in the General Fund to specific account  
of the Department of City Controller

WHEREAS, an EMERGENCY exists for the appropriation  
of additional funds to the current budget of the City Controller, which  
appropriation has been recommended by the City Controller, in the  
amount of Seventy-Five Thousand (\$75,000) dollars, which funds  
are presently available in the unobligated balance of the General Fund  
by reason of a recent transfer to it of such amount from the Cash Reserve  
Fund of the Electric Utility as envisioned by I.C. 19-3-19-1;

NOW THEREFORE, BE IT ORDAINED BY THE COMMON  
COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:


SECTION 1. That there is hereby appropriated to the  
accounts of the current budget of the City Controller the amount set  
opposite said account below respectively, to wit:

Account No. 4-02-010-002-4267 Consultant Services  
\$75,000.00

SECTION 2. That the unappropriated balance of the General  
Fund is hereby reduced in the amount of \$75,000.

SECTION 3. The first expenditures shall be to fund a  
study to determine the legality of the petition, and to pay for costs  
related to such a legal study. Further, no other funds shall be spent  
until the legal question is decided in the affirmative.

SECTION 4. That this Ordinance shall be in full force  
and effect from and after its passage and approval by the Mayor and  
legal publication thereof.

  
Councilwoman

619  
BILL NO. A-79-08-58<sup>as</sup> amended

APPROPRIATION ORDINANCE NO. A-19-79

AN ORDINANCE appropriating additional funds in the General Fund to specific account of the Department of City Controller

WHEREAS, an EMERGENCY exists for the appropriation of additional funds to the current budget of the City Controller, which appropriation has been recommended by the City Controller, in the amount of Seventy-Five Thousand (\$75,000) dollars, which funds are presently available in the unobligated balance of the General Fund by reason of a recent transfer to it of such amount from the Cash Reserve Fund of the Electric Utility as envisioned by I.C. 19-3-19-1;

NOW THEREFORE, BE IT ORDAINED BY THE COMMON COUNCIL OF THE CITY OF FORT WAYNE, INDIANA:

SECTION 1. That there is hereby appropriated to the accounts of the current budget of the City Controller the amount set opposite said account below respectively, to wit;

Account No. 4-02-010-002-4267 Consultant Services \$75,000.00

SECTION 2. That the unappropriated balance of the General Fund is hereby reduced in the amount of \$75,000.

SECTION 3. That this Ordinance shall be in full force and effect from and after its passage and approval by the Mayor and legal publication thereof.

Vivian A. Schmidt  
Councilman

\*\*\*\*Public Hearing set for \_\_\_\_\_, 1979  
(Day) (Date)

at \_\_\_\_\_ o'clock.  
(Time)

APPROVED AS TO FORM  
AND LEGALITY,

[Signature]  
CITY ATTORNEY

Read the first time in full and on motion by O. Schmidt, seconded by

Kenya, and duly adopted, read the second time by title and referred to the Committee on Finance (and the City Plan Commission for recommendation) and Public Hearing to be held after due legal notice, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on Tues., the 11th day of September, 1979 at 7:30 o'clock P. M., E.S.T.

DATE: 8-28-79

Charles W. Western  
CITY CLERK

Read the third time in full and on motion by O. Schmidt,

seconded by Nuckols, and duly adopted, placed on its passage.

PASSED (Lost) by the following vote:

|                    | <u>AYES</u>   | <u>NAYS</u>   | <u>ABSTAINED</u> | <u>ABSENT</u> | <u>TO-WIT:</u> |
|--------------------|---------------|---------------|------------------|---------------|----------------|
| <u>TOTAL VOTES</u> | <u>8</u>      | <u>0</u>      | <u>      </u>    | <u>1</u>      | <u>      </u>  |
| <u>BURNS</u>       | <u>X</u>      | <u>      </u> | <u>      </u>    | <u>      </u> | <u>      </u>  |
| <u>HINGA</u>       | <u>      </u> | <u>      </u> | <u>      </u>    | <u>X</u>      | <u>      </u>  |
| <u>HUNTER</u>      | <u>X</u>      | <u>      </u> | <u>      </u>    | <u>      </u> | <u>      </u>  |
| <u>MOSES</u>       | <u>X</u>      | <u>      </u> | <u>      </u>    | <u>      </u> | <u>      </u>  |
| <u>NUCKOLS</u>     | <u>X</u>      | <u>      </u> | <u>      </u>    | <u>      </u> | <u>      </u>  |
| <u>SCHMIDT, D.</u> | <u>X</u>      | <u>      </u> | <u>      </u>    | <u>      </u> | <u>      </u>  |
| <u>SCHMIDT, V.</u> | <u>X</u>      | <u>      </u> | <u>      </u>    | <u>      </u> | <u>      </u>  |
| <u>STIER</u>       | <u>X</u>      | <u>      </u> | <u>      </u>    | <u>      </u> | <u>      </u>  |
| <u>TALARICO</u>    | <u>X</u>      | <u>      </u> | <u>      </u>    | <u>      </u> | <u>      </u>  |

DATE: 9-11-79

Charles W. Western  
CITY CLERK

Passed and adopted by the Common Council of the City of Fort Wayne, Indiana, as

(ZONING MAP) (GENERAL) (ANNEXATION) (SPECIAL) (APPROPRIATION) ORDINANCE

(RESOLUTION) No. 9-19-79 on the 11th day of September, 1979  
ATTEST: (SEAL)

Charles W. Western  
CITY CLERK

Winifred C. Wingo Jr.  
PRESIDING OFFICER

Presented by me to the Mayor of the City of Fort Wayne, Indiana, on the 12th day of September, 1979, at the hour of 11:30 o'clock A. M., E.S.T.

Charles W. Western  
CITY CLERK

Approved and signed by me this 13th day of September, 1979, at the hour of 3 o'clock P. M., E.S.T.

Robert Armstrong  
MAYOR

Bill No. A-79-08-58

*(as amended)*

REPORT OF THE COMMITTEE ON FINANCE

We, your Committee on Finance to whom was referred an Ordinance  
appropriating additional funds in the General Fund to specific  
account of the Department of City Controller

have had said Ordinance under consideration and beg leave to report back to the Common  
Council that said Ordinance klo PASS. *as amended*

VIVIAN G. SCHMIDT - CHAIRMAN

*Vivian G. Schmidt*

WILLIAM T. HINGA - VICE CHAIRMAN

JAMES S. STIER

JOHN NUCKOLS

DONALD J. SCHMIDT

*John Nuckols*  
*Donald J. Schmidt*

*9-11-79*  
DATE

CONCURRED IN  
CHARLES W. WESTERMAN, CITY CLERK

STATEMENT OF INDIANA & MICHIGAN  
ELECTRIC COMPANY  
To Finance Committee  
Of The Common Council Of  
The City Of Fort Wayne, Indiana  
On Appropriation Bill No. A-79-08-58  
September 11, 1979

Introduction

So that we may present to you, in a permanent and more detailed form, the issues raised with you by our representatives this evening, we are reducing them to writing.

As most of you are aware, Indiana & Michigan Electric Company ("I&M") owns a "presently operating electric utility" in the City of Fort Wayne, in the six (6) mile perimeter of the City of Fort Wayne and in many other cities, towns and rural areas in the states of Indiana and Michigan. They all could meet the definition of being "presently operating electric utilities". In fact, I&M, as a corporate entity, could meet the definition of being a "presently operating electric utility".

I&M also owns and operates transmission lines through the City of Fort Wayne and the perimeter thereof. They serve other areas but are part of the electric utility presently operating in the City of Fort Wayne.

I&M does not own, but it has the right to operate, what was known as "City Light" under the terms of a lease with the City of Fort Wayne. That, also could be considered to be a "presently operating electric utility".

The Whitley County, United and Paulding-Putnam REMCs also own "presently operating electric utilities" in the six (6) mile area surrounding Fort Wayne. The Cities of New Haven and Hometown are located in that same area and have "presently operating electric utilities" within them.

### Appropriation

Before appropriating \$75,000.00 to study some question we suggest that there should be a more clear understanding of which "presently operating electric utility" will be studied, why the money is being appropriated, what is to be studied and by whom. It would, indeed, be a shame to appropriate and spend \$75,000.00 to study a question that nobody may ever decide, for any one of many reasons.

The Appropriation Bill which you have under consideration merely appropriates the money to the "consultant services" account. It does not define the purpose for which the money is to be used. That could cover any consultant on any question or questions studied in any sequence. Would it be a better Bill if it were amended to answer at least the following three (3) questions:

1. What questions should the consultants study? and
2. In what sequence should the questions be studied?
3. Who will select the consultants to make the studies?

### Questions Studied

Before determining what questions should be considered by which consultant, the Council should decide whether or not it desires a study that will be pertinent to whatever the petition seeks to have done. It will be most difficult to instruct a consultant to study the question raised by the petition because that petition does not raise a clear question. There is no way to tell from the petition itself which "presently operating electric utility" it refers to. As recently as August 17, 1979, a spokesman for the group pushing this proposal was quoted in the Fort Wayne News Sentinel as saying:

"It is impossible to define the boundaries [of the system]. We don't know if we'll go the six mile fringe or not".

Does this statement tell you which utility system is to be studied?

If the Council decides to have a particular question studied without regard to the Petition, it must answer for itself "why?" What do we expect to accomplish by the study after the money has been spent?

### Sequence in Which Questions Studied

The members of this Council may be of the opinion that their discussion and the resolution which they adopted on August 14, 1979, established a sequence in which the study is to consider the various questions raised. However, if you closely study the part of that document which reflects your resolution, you will find that it provides as follows:

#### "NOW THEREFORE BE IT RESOLVED:

That the Mayor of the City of Fort Wayne take whatever steps his department deems necessary to consider appropriation of funds to finance costs of studies on the proposal by AMP for City of Fort Wayne, Indiana to purchase, condemn +/- or acquire the presently operating electric utility."

The first recital paragraph of that document credits the group with having requested a study in a particular sequence. However, that language was never carried into the resolution part of that document. Consequently, it is of no legal effect.

If your intention is to be given effect, the Appropriation Bill that you are now considering should provide for the study to include, in sequence, a legal part, an engineering part and a financial part. There would seem to be little point in spending money to make an engineering or financial study until after you determine that the City, legally, can do whatever it is the Petition asks it to do.

### Consultants

At the outset, we suggest that it may be desirable to employ different consultants for each area of the study. Excellent lawyers make notoriously poor engineers but are the only ones qualified to answer legal questions. Both the process of selection and the consultants themselves should be beyond reproach. According to this morning's newspaper, Mr. Moses appears to have already set those wheels in motion.

### Legal Study

The Council's own attorney, John Logan, has already expressed the opinion that the petition is not legally sufficient to be treated as a "petition", as that term is used in §8-1-2-99 of the Indiana Code. However, by tie vote, with one

Councilman absent, this Council declined to concur in the opinion of Mr. Logan. Mr. Logan's opinion has been buttressed by the opinion of William Evans of the Indianapolis law firm of Bose and Evans. For years the City has utilized the services of a particular bond counsel firm. They are recognized experts in municipal financing. Since, ultimately, bond counsel would have to pass on the legality of the bonds which will have to be issued to finance any condemnation, it might be well to seek the opinion of that bond counsel, at this time, instead of waiting until after \$75,000.00 or more has been spent. Among the questions that might be put to bond counsel are the following:

1. Is the petition that motivated this appropriation bill legally sufficient to be treated as a "petition" in accordance with §8-1-2-99 of the Indiana Code?

2. How much money will §8-1-2-94 of the Indiana Code permit the City to spend on a preliminary study before defining the system to be acquired?

It should be noted that §8-1-2-94 of the Ind. Code places a legal limitation on the amount that may be spent for a preliminary study. The limitation is 5% of the estimated cost of acquiring the system to be acquired. However, until you decide exactly what system is to be acquired, you cannot estimate how much 5% of the value of that system would be.

3. What effect could the methods used to obtain signatures on the petition have upon the validity of those signatures?

You will recall that a picture recently appeared in the Fort Wayne Journal Gazette of people signing the AMP Petition under a sign which said "Sign here for lower rates". Many of you may have seen that same sign or one like it. Were people induced to sign the petition upon the representation that if enough people did so, their electric rates would automatically be decreased? However, aren't you now being asked to finance a study to determine whether or not that claim can be substantiated? In time sequence, shouldn't the study have been made before the representations were made? If the study reflects that the granting of the petition will not reduce rates, weren't the people misled? Does that affect the validity of their signatures on the petition?

4. Can the lease between the City of Fort Wayne and I&M relative to what formerly was known as "City Light" be broken unilaterally by the City without any evidence of I&M's failure to perform?



The lease contains several covenants which could be interpreted as a waiver of the right of the City to condemn what it already owns. Among those are:

"The City covenants and agrees with the Company [I&M] that it will not sell, encumber or otherwise impair or affect Company's possession, operation of, or interest in, the leased property during the term of this agreement, (Article IX)".

That covenant made by the City must mean something. Mr. Evans has already expressed the opinion that the City could not terminate that lease without evidence of I&M's failure to perform. If he is right, would it not be a waste of money to proceed with an engineering and a financing study?

5. What would be the measure of damages assessed against the City if it were allowed to terminate the City Light Lease?

If I&M is deprived of the use of City Light for the thirty years remaining on the lease, is it not entitled to damages?

6. What would be the measure of damages awarded to I&M because part of its now integrated system was going to be disconnected?

Removing part of an integrated system, has an adverse affect on the balance of the system. It would cost I&M substantial sums of money to again integrate its system without the part that had been removed. Won't the City have to reimburse I&M for that expense?

7. Can the City legally issue revenue bonds to pay for all costs, expenses and damages resulting from acquisition or condemnation, such as:

A. Damages assessed against it by reason of its breach of the lease with I&M, if it is allowed to breach that lease?

B. Damages sustained by I&M by reason of part of its integrated system being disconnected?

C. The cost of disconnecting whatever system is referred to in the petition from the remainder of I&M's system?

Inclusion of those items is bound to raise the cost of this project above the fair market value of the system being acquired.

8. What is the legal effect of issuing revenue bonds in an amount that exceeds the fair market value of the system being acquired?

9. What procedures must the City follow and what procedures may the City follow, at its discretion, when the results of the study are received?

There are those who would have you believe that this Council is merely a "rubber stamp" and has no discretion in this matter. If that is not the case, the sooner you become aware of your alternatives, the better.

#### Alternative

One alternative procedure that the Council might consider at this time is to instruct your counsel, John Logan to submit to your bond counsel the legal questions which you desire to have answered and obtain an estimate from that counsel of the cost of obtaining answers. You could then appropriate only enough money to cover the cost of the legal part of the study alone. While awaiting the results of the legal study, you could consider what restrictions and limitations should be placed on the balance of the appropriation and you could interview and consider consultants to make the engineering and financial study. In that way, progress would be constantly made. However, you would not have to actually employ any consultant until the legal part of the study is completed and you know that you legally can do whatever it is the Petition asks you to do. The answers to those legal questions must be faced up to and reconciled eventually. Wouldn't it be better for the citizens of Fort Wayne to do that now rather than after spending \$75,000.00 or more?

#### Engineering Study

Only if the legal portion of the study is favorable to proceeding with the project, you may want to consider employing an engineering consultant to perform the engineering portion of the study for you. In the meantime you will have decided how to select that consultant and who it will be. In any event, among the questions that might be put to that consultant are the following:

1. Which "presently operating electric utility" is referred to in the petition?
2. What will be the estimated cost of disconnecting the system to be condemned from the entire I&M system?
3. What will be the estimated cost of making the separated part a complete system?
4. What damages will be sustained by I&M by reason of the disconnection of the system to be condemned from the balance of the system?
5. What will be the cost of acquiring the system to be acquired?
6. What will be the source of electric energy?
  - A. If it is to be purchased, from whom, and at what cost?
  - B. If it is to be generated, what facilities will be required and what will be the cost of generation?
7. What is the estimated cost of operating that system?
8. What is the estimated cost of maintaining that system?
9. What is the estimated cost of training qualified personnel to operate, maintain and run the system?
10. What is the estimated cost of providing for future upgrading of the system?

#### Financial Study

If the legal and engineering studies reflect that the project is feasible, you may, at that time, wish to select a consultant to conduct a financial study for you. Among the questions that might be submitted to such a consultant are the following:

1. How can the City raise the money to pay the damages awarded to I&M because the City breached the City Light Lease? Even if bonds can be legally issued for that purpose, are such bonds saleable? If they are saleable, what will the cost of that money be to the City?

2. How can the City raise the money to pay the cost of disconnecting the system from I&M's system? Even if bonds can be legally issued for that purpose, are they saleable? If so, what would the cost of that money be to the City?

3. How can the City raise the money to make the separated part a complete system? Even if bonds can be legally issued for that purpose, are they saleable? If so, what would the cost of that money be to the City?

4. How can the City raise the money to pay the damages awarded to I&M because of the disconnection of part of its system? Even if bonds can be legally issued for that purpose, are they saleable? If so, what would the cost of that money be to the City?

5. How can the City raise money to finance the acquisition of whatever system it intends to acquire? At what cost could the bonds for such financing be sold?

6. How much of the money spent on studies can be included in the bond issue?

7. How could the City off-set its financial loss when I&M is no longer obligated to pay rental in the average amount of \$1,615,000.00 per year under the lease and the City no longer receives taxes in the approximate amount of \$1,350,000.00 per year? Will the municipal electric utility be able to return that amount of money (approximately \$3,000,000.00 per year) to the City without charging rates higher than those charged by I&M?

If bonds cannot be sold for all of these purposes, where will the money come from - taxes?

Summary

Only after the legal, engineering and financial questions have been answered and studies completed, will the citizens of Fort Wayne be in a position to make an intelligent choice on whatever it is the petition asks them to do. By consolidating the engineering and financial study, if we ever get that far, we would be able to determine the real cost, per kilowatt hour, of producing, distributing and selling electric energy. When we add to that, the cost of returning to the City of Fort Wayne approximately \$3,000,000.00 per year, and compare the total cost of achieving that goal to the price for which I&M is then selling electric energy, will we know whether or not the claim of a rate reduction which may have induced signers of the petition to do so, can be substantiated.

As Mr. Black said, I&M is not afraid of such a study. If the study is done in an objective and professional manner, we are confident that it will show that the City of Fort Wayne and its citizens are served better and more economically by I&M. We just don't want anyone blaming us in the future for not pointing out these problems and pitfalls before substantial amounts of money are committed or spent.

In addition to all of the questions we have already posed, there are a great number of personnel and labor relations issues that must be addressed before reversing the actions taken five (5) years ago that affected many employees.

We submit that the Council should give serious consideration to not appropriating any money at all until it knows the cost of the legal study. Then it should appropriate enough money to cover only the cost of the legal study. Money for the balance of the study should not be appropriated until the results of the legal study are known. Even then the Council may not want to appropriate the balance without restrictions and conditions so that all the money appropriated is not spent on a study that won't answer all the questions that need to be answered.

WILLIAM P. FAGAN STATEMENT  
To Finance Committee of  
Fort Wayne Common Council  
September 11, 1979

APPROPRIATION BILL NO. A-79-08-58

1. REPRESENT I & M
2. I & M OWNS A "PRESENTLY OPERATING ELECTRIC UTILITY" THAT SERVES
  - A. THE CITY OF FORT WAYNE
  - B. THE 6-MILE PERIMETER OF FORT WAYNE
  - C. MANY OTHER CITIES, TOWNS AND RURAL AREAS IN THE  
STATES OF INDIANA & MICHIGANTHEY ALL COULD MEET THE DEFINITION OF "PRESENTLY OPERATING  
ELECTRIC UTILITIES". IN FACT, I & M, AS A CORPORATE  
ENTITY, COULD MEET THE DEFINITION OF BEING A "PRESENTLY  
OPERATING ELECTRIC UTILITY".
3. I & M ALSO OWNS AND OPERATES TRANSMISSION LINES THAT  
TRANSMIT ELECTRIC POWER THROUGH THE CITY OF FORT  
WAYNE AND THE PERIMETER THEREOF. THEY SERVE OTHER  
AREAS BUT ARE PART OF AN ELECTRIC UTILITY SYSTEM  
PRESENTLY OPERATING IN THE CITY OF FORT WAYNE.
4. I & M DOES NOT OWN, BUT IT HAS THE RIGHT TO OPERATE, WHAT  
WAS KNOWN AS "CITY LIGHT" UNDER THE TERMS OF A LEASE WITH  
THE CITY OF FORT WAYNE. THAT ALSO COULD BE CONSIDERED TO  
BE A "PRESENTLY OPERATING ELECTRIC UTILITY".

5. THE PAULDING-PUTNAM, WHITLEY CO. AND UNITED REMCs  
ALSO OWN "PRESENTLY OPERATING ELECTRIC UTILITIES" IN  
6-MILE AREA SURROUNDING FORT WAYNE.
6. THE CITIES OF NEW HAVEN AND HUNTERTOWN ARE LOCATED IN THAT  
SAME AREA AND THEY HAVE ELECTRIC UTILITIES PRESENTLY OPERAT-  
ING WITHIN THEM.
7. BEFORE APPROPRIATING \$75,000.00, WE SUGGEST THAT  
THERE SHOULD BE A MORE CLEAR UNDERSTANDING OF WHICH  
"PRESENTLY OPERATING ELECTRIC UTILITY" IS TO BE STUDIED,  
WHY THE MONEY IS BEING APPROPRIATED AND WHAT IT IS TO BE  
USED FOR. IT WOULD BE A SHAME TO APPROPRIATE AND SPEND  
\$75,000.00 TO STUDY A QUESTION THAT NOBODY MAY EVER  
DECIDE, FOR ANY ONE OF MANY REASONS.
8. APPROPRIATION BILL MERELY APPROPRIATES THE MONEY TO  
THE "CONSULTANT SERVICES" ACCOUNT - THAT COULD COVER  
ANY CONSULTANT ON ANY QUESTION OR QUESTIONS STUDIED IN  
ANY SEQUENCE.
9. WOULDN'T IT BE A BETTER BILL IF IT WERE AMENDED TO ANSWER  
AT LEAST THE FOLLOWING THREE (3) QUESTIONS:
  - A. WHAT QUESTIONS SHOULD THE CONSULTANTS STUDY? AND
  - B. IN WHAT SEQUENCE SHOULD THE QUESTIONS BE STUDIED?
  - C. WHO WILL SELECT THE CONSULTANTS?

10. WHO SHOULD SELECT AND HOW MANY?

A. DIFFERENT CONSULTANT EACH AREA

1. LEGAL - ENGINEERING AND FINANCIAL

B. MOSES STARTED WHEELS TURNING

11. WHAT QUESTIONS STUDIED?

A. PERTINENT TO PETITION OR INDEPENDENT?

B. WHAT QUESTION RAISED BY PETITION?

1. IT DOES NOT RAISE A CLEAR QUESTION BECAUSE

THERE IS NO WAY TO TELL FROM THE PETITION

ITSELF WHICH PRESENTLY OPERATING ELECTRIC

UTILITY IT REFERS TO.

2. A SPOKESMAN FOR THE GROUP PUSHING IT WAS QUOTED

AS RECENTLY AS AUGUST 17, 1979 EDITION OF NEWS

SENTINEL:

"IT IS IMPOSSIBLE TO DEFINE THE BOUNDARIES  
OF THE SYSTEM. WE DON'T KNOW IF WE'LL GO  
THE 6-MILE FRINGE OR NOT".

3. DOES THIS STATEMENT TELL YOU WHICH ELECTRIC

UTILITY SYSTEM IS TO BE STUDIED?

C. INDEPENDENT - WHY? - WHAT ACCOMPLISHED?

12. SEQUENCE IN WHICH QUESTIONS STUDIED:

A. RESOLUTION ADOPTED ON AUGUST 14, 1979 PROVIDES

MERELY THAT THE MAYOR

"TAKE WHATEVER STEPS HIS DEPARTMENT DEEMS NECESSARY  
TO CONSIDER APPROPRIATION OF FUNDS TO FINANCE COSTS  
OF STUDIES ON THE PROPOSAL BY AMP"



1. NOT IN RESOLUTION - NO LEGAL EFFECT
2. GIVE EFFECT BY AMENDING BILL - STUDY IN SEQUENCE

B. LEGAL

1. GENERAL

- A. LOGAN OPINION - TIE VOTE
- B. EVANS OPINION
- C. BOND COUNSEL - RECOGNIZED EXPERTS
- D. BETTER TO FIND OUT NOW THAN AFTER \$75,000.00  
OR MORE SPENT

2. QUESTIONS

- A. IS THE PETITION LEGALLY SUFFICIENT?
- B. HOW MUCH MONEY CAN BE SPENT ON A PRELIMINARY  
STUDY BEFORE IDENTIFYING THE SYSTEM TO BE  
STUDIED
  1. 5% LIMITATION
- C. EFFECT OF METHODS USED TO GET PETITIONS  
SIGNED UPON VALIDITY OF PETITIONS
  1. PICTURE IN J. G. "SIGN HERE FOR LOWER  
RATES"
  2. MANY OF YOU SEE
  3. WERE PEOPLE INDUCED
  4. AREN'T YOU NOW BEING ASKED TO FINANCE A  
STUDY TO DETERMINE
  5. SHOULDN'T STUDY HAVE COME FIRST
  6. IF STUDY SHOWS RATES NOT LOWER - MISLEAD

7. EFFECT VALIDITY OF PETITION

- D. CAN CITY LIGHT LEASE BE BROKEN WITHOUT EVIDENCE OF I & M'S FAILURE TO PERFORM
  - 1. PROVISIONS IN LEASE RE: WAIVER
  - 2. EVANS OPINION
  - 3. IF HE IS RIGHT WOULD IT NOT BE A WASTE OF MONEY TO PROCEED
- E. MEASURE OF DAMAGES IF CITY CAN BREAK LEASE
  - 1. DEPRIVED OF USE FOR 30 YRS. = DAMAGES
- F. MEASURE OF DAMAGES BECAUSE PART OF I & M'S SYSTEM DISCONNECTED
- G. CAN CITY ISSUE BONDS TO COVER ALL COSTS, EXPENSES AND DAMAGES
  - 1. DAMAGES FOR BREACH OF LEASE
  - 2. DAMAGES FOR DISCONNECT
  - 3. COST OF DISCONNECT
  - 4. COST OF MAKING PART SEPARATED A COMPLETE SYSTEM

= COST OF PROJECT EXCEED F M V OF SYSTEM ACQUIRED
- H. LEGAL EFFECT OF BONDING IN EXCESS OF F M V
- I. WHAT PROCEDURES MUST CITY FOLLOW VS. WHAT PROCEDURES MAY CITY FOLLOW, AT ITS DISCRETION WHEN RESULTS OF STUDIES IN
  - 1. RUBBER STAMP

C. ALTERNATIVE

1. LOGAN GIVE LEGAL QUESTIONS TO BOND COUNSEL  
AND GET ESTIMATE OF COST OF ANSWERS
2. APPROPRIATE ENOUGH TO COVER COST OF LEGAL  
OPINION ONLY
3. INTERVIEW AND CONSIDER ENGINEERING &  
FINANCIAL CONSULTANT - DO NOT EMPLOY UNTIL  
AFTER YOU KNOW THAT YOU LEGALLY CAN DO WHAT-  
EVER IT IS THAT THE PETITION ASKS YOU TO DO
4. MAKING PROGRESS ALL THE TIME
5. FACE UP TO ANSWER TO LEGAL QUESTIONS EVENTUALLY.  
BETTER NOW THAN AFTER \$75,000.00 OR MORE SPENT.

D. ENGINEERING - ONLY IF LEGAL PORTION FAVORABLE  
DECIDED WHO IN MEAN TIME

1. QUESTIONS IN WRITTEN STATEMENT TO BE DISTRIBUTED

E. FINANCIAL - ONLY IF LEGAL AND ENGINEERING FAVORABLE

1. QUESTIONS IN WRITTEN STATEMENT TO BE DISTRIBUTED
2. IF BONDS CANNOT BE SOLD FOR ALL DAMAGES,  
EXPENSES AND COSTS, WHERE WILL MONEY COME FROM -  
TAXES?
3. HOW WILL CITY OFF-SET LOSS OF APPROXIMATELY  
\$3 MIL. IF I & M NO LONGER REQUIRED TO  
PAY RENTAL AVERAGING \$1,615,000.00 PER YR. AND  
CITY LOSES TAX MONEY OF APPROX. \$1,350,000.00  
PER YEAR?

13. ONLY AFTER THE LEGAL, ENGINEERING AND FINANCIAL QUESTIONS HAVE BEEN ANSWERED AND STUDIES COMPLETED, WILL THE CITIZENS OF FORT WAYNE BE IN A POSITION TO MAKE AN INTELLIGENT CHOICE ON WHATEVER IT IS THE PETITION ASKS THEM TO DO. BY CONSOLIDATING THE ENGINEERING AND FINANCIAL STUDY, IF WE EVER GET THAT FAR, WE WOULD BE ABLE TO DETERMINE THE REAL COST, PER KILOWATT HOUR, OF PRODUCING, DISTRIBUTING AND SELLING ELECTRIC ENERGY. WHEN WE ADD TO THAT, THE COST OF RETURNING TO THE CITY OF FORT WAYNE APPROXIMATELY \$3,000,000.00 PER YEAR, AND COMPARE THE TOTAL COST OF ACHIEVING THAT GOAL TO THE PRICE FOR WHICH I & M IS THEN SELLING ELECTRIC ENERGY, WILL WE KNOW WHETHER OR NOT THE CLAIM OF A RATE REDUCTION WHICH MAY HAVE INDUCED SIGNERS OF THE PETITION TO DO SO, CAN BE SUBSTANTIATED.
14. AS MR. BLACK SAID, I & M IS NOT AFRAID OF SUCH A STUDY. IF THE STUDY IS DONE IN AN OBJECTIVE AND PROFESSIONAL MANNER, WE ARE CONFIDENT THAT IT WILL SHOW THAT THE CITY OF FORT WAYNE AND ITS CITIZENS ARE SERVED BETTER AND MORE ECONOMICALLY BY I & M. WE JUST DON'T WANT ANYONE BLAMING US IN THE FUTURE FOR NOT POINTING OUT THESE PROBLEMS AND PITFALLS BEFORE SUBSTANTIAL AMOUNTS OF MONEY ARE COMMITTED OR SPENT.
15. IN ADDITION TO ALL OF THE QUESTIONS WE HAVE ALREADY POSED, THERE ARE A GREAT NUMBER OF PERSONNEL AND LABOR RELATIONS ISSUES THAT MUST BE ADDRESSED BEFORE REVERSING THE ACTIONS TAKEN FIVE (5) YEARS AGO THAT AFFECTED MANY EMPLOYEES.

16. WE SUBMIT THAT THE COUNCIL SHOULD GIVE SERIOUS CONSIDERATION TO NOT APPROPRIATING ANY MONEY AT ALL UNTIL IT KNOWS THE COST OF THE LEGAL STUDY. THEN IT SHOULD APPROPRIATE ENOUGH MONEY TO COVER ONLY THE COST OF THE LEGAL STUDY. MONEY FOR THE BALANCE OF THE STUDY SHOULD NOT BE APPROPRIATED UNTIL THE RESULTS OF THE LEGAL STUDY ARE KNOWN. EVEN THEN THE COUNCIL MAY NOT WANT TO APPROPRIATE THE BALANCE WITHOUT RESTRICTIONS AND CONDITIONS SO THAT ALL THE MONEY APPROPRIATED IS NOT SPENT ON A STUDY THAT WON'T ANSWER ALL THE QUESTIONS THAT NEED TO BE ANSWERED.

September 11, 1979

Statement by W. A. Black Before  
Finance Committee and Common Council  
City of Fort Wayne

Madame Chairman, members of the Finance Committee and other members of City Council. My name is William A. Black. I am executive vice president of Indiana & Michigan Electric Company. With me this evening are William P. Fagan, a member of the law firm of Livingston, Dildine, Haynie & Yoder, and Larry Brunke, Fort Wayne division manager of I&M.

Madame chairman and members of the committee, I stated I&M's questions and concerns about the proposal before you at a news conference in March. Tonight, I would like to reiterate our position and once again raise those questions--still unanswered after these many months.

We said in March, and let me state again tonight, that Indiana & Michigan Electric Company plans to stay in Fort Wayne and operate the electric facilities here. No part, and I repeat for emphasis, no part of our system is for sale. We do intend to protect our interests, which we believe are also the interests of the citizens of Fort Wayne.

In March we said we had many questions about the proposal concerning electric service in Fort Wayne. And, we suggested that the citizens of Fort Wayne ought to have answers to these questions.

Today we still have the same questions. And, we have not yet seen or heard any answers. You may ask, what kind of questions? They are very large and important questions that we believe are at the heart of the proposal.

There is a question concerning the petition for a referendum. Just a few weeks ago this Council received a learned opinion from its own counsel that the petition is "legally insufficient." You may remember a photo in a recent edition of the JOURNAL-GAZETTE,

showing residents signing a petition at a table marked "Sign Here For Lower Rates." Did the citizens think this is what they signed for, lower rates? Will they be lower or will they be higher?

Before Council appropriates large sums of money to make a study, we believe answers are needed right here. Should money be appropriated based on what Council's legal adviser has labelled a legally insufficient petition? It would seem that other important questions need answering before money is appropriated. For instance: What are the specifics of the proposal? Who will do the study? Is the amount you're considering sufficient to do a good job?

Once the question of the petition's legality is settled Council will then be in a position to determine what, if anything further, needs to be done. Facts about how the City might finance such a project (if in fact it can finance it at all) the amount of money that would be required to staff, operate and maintain an electric system, the interest rates to be paid on bonds and the rate structure to be implemented.

It should come as no surprise that the issue is an extremely complex one from a financial engineering and even social standpoint. Our first concern is that everyone who participates in the consideration of the proposal bases that consideration on thoroughly documented and supportable information. As we stated in March, emotional arguments, unprovable assertions, faulty assumptions and unfounded generalizations have no place in such a matter when the right decision is crucial to so many people.

Why is I&M so interested and eager for the citizens of Fort Wayne and its Common Council to have all the information? Because we're convinced that the facts will show that it would be best for Fort Wayne and the electric consumers here if we do stay. We are not frightened by the questions or their answers. If the legal questions are answered indicating that the project should go forward, we support whatever action is necessary to obtain the answers to so many questions that remain unanswered. I&M does not want the people of this community to ask sometime in the future, "why didn't you warn us?" We're taking that opportunity tonight.

No one truly interested in the best for the City and the citizens of Fort Wayne should oppose whatever timetable is necessary to obtain answers to all these questions in the proper sequence. The Council's first concern, I'm sure, is not I&M. Its first concern should not be the group making the proposal. Its first concern should not even be the re-establishment of a municipal power system. Its only concern should be the City of Fort Wayne and its citizens. We urge you and the people you represent to obtain the facts you need in the amount of time you need. All concerned could be living with the results of your decision for a long time to come. When you do act, be sure.

I would now like to ask Mr. Fagan to discuss some of the questions we feel Council needs to have answered as part of its search for the facts.



# Memorandum

To Members of the Common Council

Date: Aug. 14, 1979

From John H. Logan

Subject Acquisition of Electric Utility System

## COPIES TO:

You have requested an opinion pertaining to Councilmanic action to be taken in respect to Petition recently presented to Clerk of the City of Fort Wayne under the provisions of IC 8-1-2-99 and presented by the Clerk to the Common Council ~~on~~ on August 7, 1979 at its Committee Session.

The said Petition reads as follows:

"Petition to the Common Council of the City of Fort Wayne:

We, the undersigned, voters of the City of Fort Wayne, respectfully request that the Common Council of the City of Fort Wayne acquire, purchase and/or condemn the presently operating electric utility system in order to, in its place, establish, own and operate a municipally owned electric utility."

Specifically, your questions are:

1. Is there a ~~valid~~ petition signed by 5% or more of the voters of the City of Fort Wayne as shown by the total vote cast for all candidates for Municipal Clerk at the last preceding Municipal election therefor?

My answer to this question rests on the certification of the Clerk, who states that he has caused to be examined by his staff and by Republican and Democratic Board Members of the Allen County Election Board, and he states that the required number of petitioners is 2,664, and it would therefore appear that there are a sufficient number of registered voters within the corporate limits of the City of Fort Wayne to render the petition eligible.

- The real question is:*  
~~Is the petition valid? In my opinion, it seems~~  
~~the sufficiency of the petition. In other words~~  
A. Does the contents of the petition meet the legal requirements necessary for inclusion *of the petition* ~~in a~~ referendum question on a special election ballot?

B. ~~From~~ <sup>Is</sup> the Common Council of the City of Fort Wayne hereinafter called "Council" <sup>required to pass</sup> upon the petition as to whether or not a referendum question should be submitted to the voters of Fort Wayne?

I shall first address myself to the language of the petition. The petition filed by AMP on July 24, 1979 contains the following request: "That the Common Council of the City of Fort Wayne acquire, purchase and/or condemn the presently operating electric utility system in order to, in its place, establish, hold and operate a municipally owned electric utility."

The rule of law applicable to petitions is generally stated as follows:

"The petition on which any official acts in calling a special election must contain all the averments necessary to give such official jurisdiction to call the election. However, it is well established that a petition will not be invalidated by trifling errors or omissions, or by unimportant irregularities and defects. Hence it is not essential that the petition be couched in the exact language of the statute. A substantial compliance therewith is sufficient. The principal issue is whether the question was fairly submitted to the voters." 26 Am.Jur. 2d, Elections §189. (Emphasis supplied).

While there are no cases directly in point in Indiana that I could find, nonetheless in other jurisdictions similar statutes such petitions are required to contain information sufficient to afford voters the opportunity of making intelligent decisions concerning the proposals presented to them.

Under this established standard is AMP'S petition sufficient or is it deficient?

IC 8-1-2-99, the statute under which we must proceed provides in part as follows:

"if said petition is to purchase, condemn, acquire or lease a public utility then operating in said municipality said Council shall submit to the voters of said municipality at a special election to be held . x x x x at the earliest possible date, ~~the~~ the question whether such municipality shall purchase, condemn or construct and operate such utility as the case may be."

~~It~~ It is clear that the Common Council is the body which must make the decision as to whether or not the referendum is to be held and must decide on what issue the referendum is to be held. ~~¶~~ Clause (b) of IC 8-1-2-99 further provides:

"said municipality is hereby given authority to acquire either by purchase or condemnation the property of said utility used and useful within such municipality and within six (6) miles of the corporate limits thereof;"

The issue therefore ~~is~~ is not whether at this time there should ~~be~~ or should not be an engineering study, but whether the issue herein presented by the petition regarding municipal acquisition of a utility property is misleading, when it ~~does~~ not identify the pertinent utility, does not identify the property to be acquired from such utility and does not identify the location of such property. It would seem that it is not clear or certain as to what should be presented to the voters at the special election or special referendum. A leading case on the subject is Missouri, K. & T. Ry. Company vs. Tolbert, a Texas case decided in 1907 reported in 101 S.W. 206 involved a "stock election" petition and was challenged for failing to sufficiently specify, as required by the statute, the area or geographic location affected by the petition's proposal. In finding the petition legally insufficient, the Texas Supreme Court held:

"This requirement is fundamental, because its purpose is to have the petition and the notices based upon it embody the very proposition to be submitted to the voters, so that from these sources they may know what they are to vote upon. This is important, not only that all may know what voters are entitled to vote as freeholders of the district, but that they may also know the territory to be affected by their votes. This information the law intends to furnish in the proceedings themselves. . . . This [learning of such location on their own], the statute in question does not expect them [the voters] to do, but provides that the information shall be given in the petition stating the proposition on which they are to vote. All of this, as well as the further proposition that an election held without compliance with so fundamental and substantial a requirement is of no effect, is

fully sustained by the authorities cited  
in the opinion of the Court of Civil Appeals."  
Supra, at p. 207 (emphasis supplied)

AMP'S petition does not define the geographical limits of the acquisition and would not appear to be sufficient to adequately inform the voters, nor does it define the utilities which ~~the~~ property is to be acquired. (i.e., I & M only, REMC's operating locally, I & M and REMC's, City Light, etc.). Such information is certainly essential for the voter to possess in order to know what ~~the~~ <sup>he</sup> signing when ~~the~~ <sup>he</sup> signs the petition and what ~~they~~ <sup>he</sup> are voting for when ~~the~~ <sup>he</sup> voting. <sup>of the special election,</sup> There are many other cases on the subject and it seems that the least that is required is substantial ~~information~~ <sup>information</sup> with the statute before the body which must pass on the petition as to whether there should be an election or referendum.

~~Suffices it to quote from the language of 36-244, IUP 23-8109,~~  
~~which recites as follows: "In Town of Tucson V. Tucson Gas,~~  
~~Electric & Power Co. (1945) 149 7 (2) 84 70~~

"Here the statute permitted the acquisition either (1) of all the utility's properties to be condemned or (2) a part of them, or (3) as corollary to the latter, all of the utility's properties except such as by law could not be acquired. What the provisions of the resolution adopted by the Common Council of the Town proposed to acquire is described . . . as 'all of the electric and gas properties, plants and systems, together with all appurtenances and incorporeal hereditaments of the defendant, the Tucson Gas Electric Light & Power Company,' situated in the Town, the adjoining City of Tucson, the surrounding territory of the County of Pima and the extensions of the distributing system in the Counties of Pinal, Santa Cruz, and Cochise, adjoining the County of Pima.

It is clear from the allegations . . . that what the electorate of the Town was asked to vote [upon] . . . was the unit of the entire system as a whole and not a mere disjointed part or parts of the system. "

~~The last line in this last quote seems to be the important matter for councilmanic consideration and that recites as follows:~~

-The principal issue is whether the question ~~has~~ fairly submitted to the voters.

Based upon the petition, what should Common Council decide as to what should be submitted to the voters. It cannot submit to the voters something that is not petitioned for and it would seem that it must substantially be able to interpret the petition so that it is clear and concise enough that the signatories to the petition and the voters would not be mislead. *Can it do this?*

It would seem that the decision in this case is one which the Common Council must itself make, ~~and~~ the Council must decide whether in its opinion the petition is clear or if it's vague or misleading. ~~and~~ If it is not clear and if it is vague and misleading then the Council would be authorizing an election which would be void if it held that this question could be properly placed upon the ballot in its present condition as set forth in the petition, ~~and~~ the Common Council in all probability be causing a needless expenditure of funds for a void election, if the latter is true. Furthermore, the case of State v. Tillatson, a Missouri case of 1957 decides as follows:

"The duty to determine whether a petition for election is in accordance with the law falls upon the officers to whom it is presented and who are charged with the duty to call the election.

Elections cannot be held except by authority of the law."

~~Other statute requiring that when a petition for school election or proposition to change boundaries is filed in proper form with the school board, such board shall post notices of an election. It was the duty of the school board to satisfy itself that the petition sufficiently complied with the statute.~~

Respectfully submitted,

*John H. Logan*  
JOHN H. LOGAN

New Section 2 in A-79-08-57

New Section 3 in A-79-08-58.

The first expenditures shall be to fund a study to determine the legality of the petition, and to pay for costs related to such a legal study. Further, ~~there shall~~ no other funds shall be spent until the legal question is decided in the affirmative.



OFFICE OF THE CITY CLERK

## THE CITY OF FORT WAYNE

CITY-COUNTY BUILDING • ONE MAIN STREET • FORT WAYNE, INDIANA 46802

charles w. westerman, clerk -- room 122

August 29, 1979

Ms. Virginia Grace  
Fort Wayne Newspapers, Inc.  
600 West Main Street  
Fort Wayne, Indiana 46802

Dear Ms. Grace:

Please give the attached full coverage on the dates of  
September 1 and September 8, 1979, in both the News Sentinel  
and Journal Gazette.

RE: Legal Notice for Common Council;  
of Fort Wayne, Indiana

Appropriation Ordinance  
Bill No. A-79-08-57  
Appropriation Ordinance  
Bill No. A-79-08-58

Please send us 12 copies of the Publisher's Affidavit from  
both newspapers.

Thank you.

Sincerely,

Charles W. Westerman  
City Clerk

CWW/ne  
Encl: 1

NOTICE TO TAXPAYERS OF  
ADDITIONAL APPROPRIATIONS

Notice is hereby given to the taxpayers of the City of Fort Wayne, Allen County, Indiana, that the Common Council of said Municipality will, at the Council Chambers, City-County Building, Fort Wayne, Indiana, on Tuesday, the 11th day of September, 19 79 at 7:30 P.M. o'clock, Eastern Standard Time, consider the following additional appropriations which said Council considers necessary to meet an extraordinary emergency existing at this time.

BILL NO. A-79-08-57

After taking care of current obligations, including a depreciation or replacement fund of at least 5% of the operating cash reserve of the utility, there is presently a balance of Seventy-Five (\$75,000) dollars in said account.

That there is hereby transferred from the Cash Reserve Fund of the Electric Utility to the City General Fund, subject to appropriation to specific accounts of the current budgets of such department or departments of the Civil City as the Council may by subsequent appropriation ordinance specify, the sum of Seventy-Five Thousand (\$75,000) dollars.

An Emergency exists for the transfer of said amount to the City General Fund and the City Controller has recommended such transfer.

BILL NO. A-79-08-58

There is hereby appropriated to the accounts of the current budget of the City Controller the amount set opposite said account below respectively,

Account No. 4-02-010-002-4267 Consultant Services \$75,000.00.

That the unappropriated balance of the General Fund is hereby reduced in the amount of \$75,000.00.

An Emergency exists for the appropriation of additional funds to the current budget of the City Controller, which appropriation has been recommended by the City Controller, in the amount of Seventy-Five (\$75,000) dollars, which funds are presently available in the unobligated balance of the General Fund by reason of a recent transfer to it of such amount from the Cash Reserve Fund of the Electric Utility as envisioned by I.C. 19-3-19-1.

Taxpayers appearing at such meeting shall have a right to be heard thereon. The additional appropriation, as finally made, will be automatically referred to the State Board of Tax Commissioners, which Commission will hold a further hearing within fifteen days at the County Auditor's Office of Allen County, Indiana, or at such other place as may be designated. At such hearing, taxpayers objection to any of such additional appropriations may be heard and interested taxpayers may inquire of the County Auditor when and where such hearing will be held.




---

CHARLES W. WESTERMAN  
CITY CLERK



AMENDMENT MADE IN COMMITTEE SESSION 9-11-79

The first expenditures shall be to fund a study to determine the legality of the petition, and to pay for costs related to such a legal study. Further, no other funds shall be spent until the legal question is decided in the affirmative.



EMERGENCY APPROPRIATION ORDINANCE

WHEREAS, certain extraordinary emergencies have developed since the adoption of the existing annual budget, so that it is now necessary to appropriate more money than was appropriated in the annual budget; now therefore, to meet such extraordinary emergencies:

Sec. 1. Be it ordained by the Common Council of the City of Fort Wayne, Allen County, Indiana, that for the expenses of said municipal corporation the following additional sums of money are hereby appropriated and ordered set apart out of the several funds herein named and for the purposes herein specified, subject to the laws governing the same:

|  | AMOUNT REQUESTED | AMOUNT APPROPRIATED |
|--|------------------|---------------------|
| <i>Q-18-75</i><br>BILL NO. A-79-08-57( <i>bookmarked</i> ) | \$ 75,000.00     | \$ 75,000.00        |

After taking care of current obligations, including a depreciation or replacement fund of at least 5% of the operating cash reserve of the utility, there is presently a balance of Seventy-Five Thousand (\$75,000.00) dollars in said account.

|  | AMOUNT REQUESTED | AMOUNT APPROPRIATED |
|--|------------------|---------------------|
| <i>Q-18-75</i><br>BILL NO. A-79-08-57( <i>bookmarked</i> ) | \$ 75,000.00     | \$ 75,000.00        |

There is hereby transferred from the Cash Reserve Fund of the Electric Utility to the City General Fund, subject to appropriation to specific accounts of the current budgets of such department or departments of the Civil City as the Council may be subsequent appropriation ordinance specify, the sum of Seventy-Five Thousand (\$75,000.00) dollars.

By Special Ordinance No. S-243-75, there was established in the accounts of the Electric Utility a Cash Reserve Fund as envisioned in I.C. 19-3-19-1; An Emergency exists for the transfer of said amount to the City General Fund and the City Controller has recommended such transfer.

ADOPTED THIS 11th DAY OF September, 1978

AYES

NAYS

*Paul M. Burns* PAUL M. BURNS

*William T. Hinga* WILLIAM T. HINGA

*Fredrick R. Hunter* FREDRICK R. HUNTER

*Winfield C. Moses, Jr.* WINFIELD C. MOSES, JR.

*John Nuckols* JOHN NUCKOLS

*Donald J. Schmidt* DONALD J. SCHMIDT

*Nivian G. Schmidt* NIVIAN G. SCHMIDT

*James S. Stier* JAMES S. STIER

*Samuel J. Talarico* SAMUEL J. TALARICO

ATTEST:

*Charles W. Westerman*  
CHARLES W. WESTERMAN  
CITY CLERK

AUDITOR'S OFFICE  
**FILED**  
SEP 14 1979

*Lelma J. Langley*  
AUDITOR OF ALLEN COUNTY

**Common Council of Fort Wayne**

(Governmental Unit)

**Allen**

County, Ind.

To **NEWS-SENTINEL** Dr.**FORT WAYNE, INDIANA****PUBLISHER'S CLAIM****LINE COUNT**

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) — number of equivalent lines

Head number of lines

Body number of lines

Tail number of lines

Total number of lines in notice

**2****77****2****81****COMPUTATION OF CHARGES**

|                  |                              |                               |             |                 |
|------------------|------------------------------|-------------------------------|-------------|-----------------|
| <b>81</b> lines, | <b>1</b> columns wide equals | <b>81</b> equivalent lines at | <b>.259</b> | <b>\$ 20.96</b> |
|                  |                              |                               |             | cents per line  |

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

**10 extra****5.00****TOTAL AMOUNT OF CLAIM.****\$ 25.96****DATA FOR COMPUTING COST**

Width of single column 9.9 ems

Size of type **5 1/2** pointNumber of insertions **2**Size of quad upon which type is cast **2 1/2**

Pursuant to the provision and penalties of Ch. 89., Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

*V. E. Gerken*Date **Sept. 8 79**, 19Title **CLERK****PUBLISHER'S AFFIDAVIT**State of Indiana  
ALLEN County SS:Personally appeared before me, a notary public in and for said county and state, the undersigned, **V. E. GERKEN** who, being duly sworn, says that she is, **CLERK** of the**NEWS-SENTINEL**a **DAILY** newspaper of general circulation printed and published in the English language in the city of **FORT WAYNE, INDIANA** townin state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for **two times**, the dates of publication being as follows:**9/1 - 9/8/79**Subscribed and sworn to before me this **8 th** day of **September** 19 **79**My commission expires **September 28, 1979***V. E. Gerken*  
Notary Public**ATTN: ADVERT**

**EMWOOD DIST CHURCH**  
1815 North  
Main Street  
Fort Wayne, Ind.  
418-4915  
10:30 a.m. - 7:00 p.m.  
Filled S.B.C.

Notice of your search for  
in County Auditor when  
in Annual Appropriations may be heard  
at the City Clerk's Office  
CITY CLERK

**NOTICE TO TAXPAYERS OF  
ADDITIONAL APPROPRIATIONS**  
Notice is hereby given to the tax-  
payers of the City of Fort Wayne,  
Allen County, Indiana, that the Com-  
mon Council of said Municipality  
will, at the Council Chambers, City  
County Building, Fort Wayne, Indi-  
ana, on Tuesday, the 11th day of  
September, 1979, at 7:30 P.M.  
o'clock, Eastern Standard Time,  
consider the following additional ap-  
propriations which said Council con-  
sider necessary to meet an

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**Common Council of Port Wayne**

(Governmental Unit)

To JOURNAL-GAZETTE Dr.**Allen**

County, Ind.

PORT WAYNE, INDIANA**PUBLISHER'S CLAIM****LINE COUNT**

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines

Head number of lines

**2**

Body number of lines

**77**

Tail number of lines

**2**

Total number of lines in notice

**81****COMPUTATION OF CHARGES**

**81** lines, **1** columns wide equals **81** equivalent lines at **.259** \$ **20.98**  
cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

**10 extra****5.00**

TOTAL AMOUNT OF CLAIM.

**\$ 25.98****DATA FOR COMPUTING COST**

Width of single column 9.9 ems

Size of type 5½ pointNumber of insertions **2**Size of quad upon which type is cast 5½

**NOTICE TO TAXPAYERS OF  
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o'clock, Eastern Standard Time,  
consider the following additional ap-  
propriations which said Council con-  
siders necessary to meet an  
extraordinary emergency existing at  
this time.

**BILL NO. A-79-08-57**  
After taking care of current oblig-  
ations, including a depreciation or  
replacement fund of at least 5% of  
the operating cash reserve of the  
utility, there is presently a balance  
of Seventy-Five (\$75,000) dollars in  
said account.

That there is hereby transferred  
from the Cash Reserve Fund of the  
Electric Utility to the City General  
Fund, subject to appropriation to  
specific accounts of the current bud-  
gets of such department or depart-  
ments of the Civil City as the  
Council may by subsequent appro-  
priation ordinance specify, the sum  
of Seventy-Five Thousand (\$75,000)  
dollars.

An Emergency exists for the  
transfer of said amount to the City  
General Fund and the City Controller  
has recommended such transfer.

**BILL NO. A-79-08-58**  
There is hereby appropriated to  
the City Controller the amount set  
opposite said account below respec-  
tively.

Account No. 4-02-010-002-4267 Con-  
sultant Services \$75,000.00. That the  
unappropriated balance of the Gen-  
eral Fund is hereby reduced in the  
amount of \$75,000.00.

An Emergency exists for the ap-  
propriation of additional funds to the  
current budget of the City Control-  
ler, which appropriation has been  
recommended by the City Controller,  
in the amount of Seventy-Five  
(\$75,000) dollars, which funds are  
presently available in the unobli-  
gated balance of the General Fund  
by reason of a recent transfer to it  
of such amount from the Cash Re-  
serve Fund of the Electric Utility as  
envisaged by I.C. 19-3-19-1.

Taxpayers appearing at such  
meeting shall have a right to be  
heard thereon. The additional appro-  
priation, as finally made, will be au-  
tomatically referred to the State  
Board of Tax Commissioners, which

Commission will hold a further hear-  
ing within fifteen days at the County  
Auditor's Office of Allen County, In-  
diana, or at such other place as may  
be designated. At such hearing, tax-  
payers objection to any of such addi-  
tional appropriations may be heard  
and interested taxpayers may in-  
quire of the County Auditor when  
and where such hearing will be held.  
**CHARLES W. WESTERMAN**  
CLERK

9/19/79

at the amount claimed is legally due, after allowing all just credits, and that no part of the same

*Arvilla Dewald*Title CLERK**PUBLISHER'S AFFIDAVIT**

State of Indiana

ALLEN County SS:

Personally appeared before me, a notary public in and for said county and state, the  
undersigned ARVILLA DEWALD who, being duly sworn, says  
that she is CLERK of the

JOURNAL-GAZETTE

a DAILY newspaper of general circulation printed and published  
in the English language in the city of FORT WAYNE, INDIANA  
town

in state and county aforesaid, and that the printed matter attached hereto is a true copy,  
which was duly published in said paper for two times, the dates of publication being  
as follows:

**9/1 - 9/8/79**

Subscribed and sworn to before me this

**8th***Arvilla Dewald*day of **September** 1979

My commission expires

**September 28, 1979**

Notary Public

**Common Council of Fort Wayne**

(Governmental Unit)

**Allen**

County, Ind.

To JOURNAL-GAZETTE Dr.

FORT WAYNE, INDIANA

**PUBLISHER'S CLAIM****LINE COUNT**

|   |           |
|---|-----------|
| Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines | <u>2</u>  |
| Head number of lines  | <u>77</u> |
| Body number of lines  | <u>2</u>  |
| Tail number of lines  | <u>81</u> |
| Total number of lines in notice   |           |

**COMPUTATION OF CHARGES**

81 lines, 1 columns wide equals 81 equivalent lines at .259 \$ 20.98  
cents per line

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two) 10 extra 5.00

TOTAL AMOUNT OF CLAIM.

\$ 25.98**DATA FOR COMPUTING COST**

Width of single column 9.9 cms

Size of type 5 1/2 pointNumber of insertions 2Size of quad upon which type is cast 5 1/2

Pursuant to the provision and penalties of Ch. 89., Acts 1967.

I hereby certify that the foregoing account is just and correct, that the amount claimed is legally due, after allowing all just credits, and that no part of the same has been paid.

*Arvilla DeWald*Date Sept. 8 1979Title CLERK**PUBLISHER'S AFFIDAVIT**State of Indiana  
ALLEN County SS:

Personally appeared before me, a notary public in and for said county and state, the undersigned, ARVILLA DEWALD who, being duly sworn, says that she is CLERK of the

JOURNAL-GAZETTE

a DAILY newspaper of general circulation printed and published in the English language in the city of FORT WAYNE, INDIANA town

in state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for two times, the dates of publication being as follows:

9/1 - 9/8/79

Subscribed and sworn to before me this

8th

day of

September 79

My commission expires

September 28, 1979

Notary Public

dollars, which funds are presently available in the unobligated balance of the General Fund by reason of a recent transfer to it of such amount from the Cash Reserve Fund of the Electric Utility as envisioned by I.C. 19-3-19-1.

Taxpayers appearing at such meeting shall have a right to be heard thereon. The additional appropriation, as finally made, will be automatically referred to the State Board of Tax Commissioners, which

**Common Council of Fort Wayne**

(Governmental Unit)

**Allen**

County, Ind.

To **NEWS-SENTINEL** Dr.**FORT WAYNE, INDIANA****PUBLISHER'S CLAIM****LINE COUNT**

Display Matter (Must not exceed two actual lines, neither of which shall total more than four solid lines of the type in which the body of the advertisement is set) - number of equivalent lines

Head number of lines

**2**

Body number of lines

**77**

Tail number of lines

**2**

Total number of lines in notice

**81****COMPUTATION OF CHARGES**

|                  |                              |                               |             |                 |
|------------------|------------------------------|-------------------------------|-------------|-----------------|
| <b>81</b> lines, | <b>1</b> columns wide equals | <b>81</b> equivalent lines at | <b>.259</b> | <b>\$ 20.98</b> |
|                  | cents per line               |                               |             |                 |

Additional charge for notices containing rule or tabular work (50 per cent of above amount)

Charge for extra proofs of publication (50 cents for each proof in excess of two)

**10 extra****5.00****TOTAL AMOUNT OF CLAIM.****\$ 25.98****DATA FOR COMPUTING COST**

Width of single column 9.9 ems

Size of type **5 1/2** pointNumber of insertions **2**Size of quad upon which type is cast **3 1/2**

Pursuant to the provision and penalties of Ch. 89., Acts 1967.

I hereby certify that the foregoing is a true and correct copy of the advertisement as published.

I am legally due, after allowing all just credits, and that no part of the same

**Sept. 8**

Date

extraordinary emergency existing at this time.

BILL NO. A-79-98-57

After taking care of current obligations, including a depreciation or replacement fund of at least 5% of the operating cash reserve of the utility, there is presently a balance of Seventy-Five (\$75,000) dollars in said account.

That there is hereby transferred from the Cash Reserve Fund of the Electric Utility to the City General Fund, subject to appropriation to specific accounts of the current budgets of such department or departments of the Civil City as the Council may by subsequent appropriation ordinance specify, the sum of Seventy-Five Thousand (\$75,000) dollars.

An Emergency exists for the transfer of said amount to the City General Fund and the City Controller has recommended such transfer.

There is hereby appropriated to the accounts of the current budget of the City Controller the amount set opposite said account below respectively.

Account No. 402-010-002-027 Consultant Services \$75,000.00. That the (un)appropriated balance of the General Fund is hereby reduced in the amount of \$75,000.00.

**ATTN: ADVERT**

An Emergency exists for the appropriation of additional funds to the current budget of the City Controller, which appropriation has been recommended by the City Controller, in the amount of Seventy-Five (\$75,000) dollars, which funds are presently available in the unobligated balance of the General Fund by reason of a recent transfer to it of such amount from the Cash Reserve Fund of the Electric Utility as envisioned by I.C. 19-3-19-1.

Taxpayers appearing at such meeting shall have a right to be heard thereon. The additional appropriation, as finally made, will be automatically referred to the State Board of Tax Commissioners, which Commission will hold a further hearing within fifteen days at the County Auditor's Office of Allen County, Indiana, or at such other place as may be designated. At such hearing, taxpayers objection to any of such additional appropriations may be heard and interested taxpayers may inquire of the County Auditor when and where such hearing will be held.

CHARLES W. WESTERMAN  
CITY CLERK

9/1/79

**V. E. Gerken**Title **CLERK****PUBLISHER'S AFFIDAVIT**of Indiana  
LEN County SS:I personally appeared before me, a notary public in and for said county and state, the undersigned, **V. E. GERKEN**, who, being duly sworn, says that she is **CLERK** of the**NEWS-SENTINEL****DAILY**

newspaper of general circulation printed and published

in the English language in the city of **FORT WAYNE, INDIANA**state and county aforesaid, and that the printed matter attached hereto is a true copy, which was duly published in said paper for **two times**, the dates of publication being

as follows:

**9/1 - 9/8/79**

Subscribed and sworn to before me this

**8 th****V. E. Gerken**  
Notary Public**September 28, 1979**

ommission expires

**NOTICE TO TAXPAYERS OF ADDITIONAL APPROPRIATIONS**

Notice is hereby given to the taxpayers of the City of Fort Wayne, Allen County, Indiana, that the Common Council of said Municipality will, at the Council Chambers, City County Building, Fort Wayne, Indiana, on Tuesday, the 11th day of September, 1979, at 7:30 P.M. o'clock, Eastern Standard Time, consider the following additional appropriations which said Council considers necessary to meet an

DIGEST SHEET*(as amended)*  
*6-75-0838*

TITLE OF ORDINANCE \_\_\_\_\_

DEPARTMENT REQUESTING ORDINANCE \_\_\_\_\_ CONTROLLER \_\_\_\_\_

SYNOPSIS OF ORDINANCE    This Bill is being requested to show the City's sincerity of cooperating with the private sector in order to provide a climate in which all citizens can make informed, unemotional value judgments on the referendum on the I & M-City Light Lease. It is our intention to let the private sector raise as many of the funds as they can. If the cost is more than the private sector can raise, then we will use this appropriation.

EFFECT OF PASSAGE    \$75,000 transfered for study.

EFFECT OF NON-PASSAGE    Study may not be completed.

MONEY INVOLVED (Direct Costs, Expenditures, Savings) \_\_\_\_\_

\_\_\_\_\_  
\$75,000

ASSIGNED TO COMMITTEE (J.N.) \_\_\_\_\_

DATE SUBMITTED: \_\_\_\_\_